United Nations A/C.3/59/L.54

General Assembly

Distr.: Limited
2 November 2004

Original: English

Fifty-ninth session
Third Committee
Agenda item 105 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in the Democratic Republic of the Congo

The General Assembly,

Reaffirming that all States Members of the United Nations have an obligation to promote and protect human rights and fundamental freedoms, and the duty to fulfil the obligations they have undertaken under the various instruments in this field,

Noting that the Democratic Republic of the Congo is a party to several international and regional human rights instruments and to several instruments pertaining to international humanitarian law,

Recalling all its previous resolutions, as well as those of the Commission of Human Rights, on the situation of human rights in the Democratic Republic of the Congo,

Noting the special report of the Secretary-General on the events in Ituri between January 2002 and December 2003[1] that was drafted by the Human Rights and Child Protection Sections of the United Nations Organization Mission in the Democratic Republic of the Congo,

[1] S/2004/573.

Recalling Security Council resolutions 1493 (2003) of 28 July 2003, 1522 (2004) of 15 January 2004, 1533 (2004) of 12 March 2004 and 1565 (2004) of 1 October 2004,

1. *Welcomes*:

(a) The nomination of the independent expert on the situation of human rights in the Democratic Republic of the Congo in July 2004, as well as his visit to the Democratic Republic of the Congo in August 2004;

(b) In particular the extended mandate of the United Nations Mission in the Democratic Republic of the Congo regarding the promotion and the protection of human rights in accordance with Security Council resolution 1565 (2004);

(c) The work accomplished by the human rights field office in the Democratic Republic of the Congo and encourages the office to pursue and enhance its cooperation with the relevant agencies of the United Nations and the United Nations Organization Mission in the Democratic Republic of the Congo in the fulfilment of its mandate;

(d) The measures taken by the transitional institutions in order to implement the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo signed in Pretoria on 17 December 2002 and to restore the authority of the State, such as the appointment of provincial governors, the establishment of the Independent Electoral Commission, the forthcoming adoption of the nationality law, the appointment of the High Command of the Integrated National Police and the setting up of the Supreme Defence Council;

2. *Supports* the work of the Special Representative of the Secretary-General for the Democratic Republic of the Congo and of the United Nations Organization Mission in the Democratic Republic of the Congo;

3. *Calls upon* the United Nations High Commissioner for Human Rights to keep it informed of the consultations between her Office and the Secretary-General concerning the ways in which to assist the transitional Government of the Democratic Republic of the Congo in tackling the problem of impunity;

4. *Takes note* of the decision by the Office of the Prosecutor of the International Criminal Court, based upon the referral of the Democratic Republic of the Congo, to commence an investigation into crimes allegedly committed in the territory of the Democratic Republic of the Congo since the entry into force of the Rome Statute of the International Criminal Court[2] on 1 July 2002;

5. *Condemns*:

(a) The continuing violations of human rights and international humanitarian law in the Democratic Republic of the Congo. The General Assembly is concerned about the prevalence of grave violations and the rise in ethnic tensions throughout the Democratic Republic of the Congo and, in particular, in Ituri, North and South Kivu and other areas in the eastern part of the country;

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[2] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

(b) The lack of fair trial and due process guarantees for many detainees and defendants in the Democratic Republic of the Congo;

6. *Urges* all parties to the conflict in the Democratic Republic of the Congo:

(a) To respect and further implement the Global and All-Inclusive agreement;

(b) To adhere fully to the Principles on Good-Neighbourly Relations and Cooperation between the Democratic Republic of the Congo and Burundi, Rwanda and Uganda[3] signed in New York on 25 September 2003, to engage firmly for the full success of the joint verification mechanism agreed upon by the Presidents of the Democratic Republic of the Congo and Rwanda in Abuja on 25 June 2004,[4] and to take part constructively in the upcoming International Conference on Peace, Security, Democracy and Development in the Great Lakes Region of Africa;

(c) To cease immediately all military activity that impedes the consolidation of the sovereignty, unity and territorial integrity of the Democratic Republic of the Congo, including support for the armed groups allied to the parties to the conflict;

(d) To support the transitional Government and its institutions in order to allow for the re-establishment of political and economic stability and for the gradual reinforcement of state structures over the entire territory of the Democratic Republic of the Congo, in accordance with their obligations under the Transitional Constitution;

(e) To put an immediate end to the recruitment and use of child soldiers, which is contrary to international law and to the African Charter on the Rights and Welfare of the Child,[5] with the understanding that, under the Convention on the Rights of the Child[6] and the Optional Protocol thereto on the involvement of children in armed conflict,[7] persons under the age of 18 are entitled to special protection, and in accordance with Security Council resolution 1539 (2004) of 22 April 2004 on children and armed conflict, and to provide information without delay on measures taken to discontinue such practices;

(f) To take special measures to protect women and children from the appalling violence, including sexual violence, which has been and continues to be prevalent throughout the country, in particular in Ituri, North and South Kivu and other areas in the eastern part of the country, and condemns in particular the widespread use of sexual violence as a means of warfare;

(g) To promote the full enjoyment of all human rights by women and children and to meet the special needs of women and girls in post-conflict reconstruction, as well as to ensure the full participation of women in all aspects of conflict resolution and peace processes, including peacekeeping, conflict management and peace-building, as a matter of priority, in accordance with Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security;

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[3] See A/58/428-S/2003/983, annex.

[4] See S/2004/534, annex.

[5] *Human Rights: A Compilation of International Instruments*, vol. II: *Regional Instruments* (United Nations publication, Sales No. E.97.XIV.1), sect. C, No. 39.

[6] Resolution 44/25, annex.

[7] Resolution 54/263, annex I.

(h) To ensure the rights and well-being of internally displaced persons, returnees and refugee populations;

(i) To respect international humanitarian law, in particular the protection of civilians by ensuring the safety, security and freedom of movement of all civilians and United Nations and associated personnel, and the unhindered access of humanitarian personnel to all of the affected population throughout the territory of the Democratic Republic of the Congo in accordance with Security Council resolutions 1265 (1999) and 1296 (2000);

(j) To promote the full enjoyment of all human rights and to protect the safety, security and freedom of movement of all human rights defenders;

7. *Calls upon* the Government of National Unity and Transition to take specific measures:

(a) To achieve the objectives of the transitional period as laid down in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels enabling the establishment of a democratic constitutional regime, and the formation of a restructured and integrated national army; and also the formation of an integrated and adequately resourced national police force;

(b) To strengthen the transitional institutions, in particular to set up effectively the Independent Electoral Commission, the Truth and Reconciliation Commission and the Human Rights Monitoring Centre, and to re-establish stability and the rule of law over the entire territory of the Democratic Republic of the Congo, thereby returning peace and progress to its people;

(c) To comply fully with its obligations under international human rights instruments and, accordingly, to continue to cooperate with United Nations mechanisms for the protection of human rights and further strengthen its cooperation with the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo;

(d) To carry out urgently a comprehensive reform of the judicial system;

(e) To reinstate the moratorium on capital punishment, especially for juvenile offenders, and adhere to its commitment to progressively abolish the death penalty;

(f) To put an end to impunity and to ensure as it is duty-bound to do that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice in accordance with due process;

(g) To cooperate with the International Criminal Court and to continue to cooperate with the International Tribunal for Rwanda;

(h) To prevent the use of the media to incite hatred or tensions among communities, while respecting freedom of expression and of the press;

(i) To continue its programme to demobilize, disarm and reintegrate former combatants, taking into account the special needs of women and children, including girls, associated with those combatants;

(j) To put an end to the illegal exploitation of the national resources of the Democratic Republic of the Congo, in view of the link between that exploitation and the continuation of that conflict;

8. *Decides* to continue to examine the situation of human rights in the Democratic Republic of the Congo and requests the independent expert on the situation of human rights in the Democratic Republic of the Congo to report to the General Assembly at its sixtieth session.